

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA
FOR THE APRIL 14, 2016 STATUS CONFERENCE**

The Plaintiffs' Steering Committee proposes the following agenda for the April 14, 2016 status conference (before both Judge Zobel and Judge Boal at 2:00 p.m.). The defendants, the Post Confirmation Officer, the FDA, and the U.S. Attorney's office have been given an opportunity to comment on this proposed agenda.

A. MOTIONS FOR WHICH ORAL ARGUMENT IS REQUESTED DURING THE STATUS CONFERENCE

1. Plaintiffs' Motion to Strike Certain Affirmative Defenses, Cross-Claims, and Third Party Claims in Box Hill's Answers [Dkts. 2451, 2452]
 - a. Box Hill's Opposition [Dkt. 2561]
 - b. Plaintiffs' Reply [Dkt. 2603]
 - c. Box Hill's Request for Hearing [Dkt. 2772]

B. REPORT TO THE COURT

1. Status of bankruptcy
2. Status of insurance declaratory judgment actions
 - a. *State Farm Fire and Casualty Company v. Specialty Surgery Center PLLC, et al.*, 2:15-cv-00026 (M.D. Tenn.)
3. Status of discovery
 - a. Premier Defendants' Joint Filing of Proposed Discovery Schedule for Premier and Box Hill Cases [Dkt. 2775]
 - b. Premier Defendants' [Dkt. 2372] Notices of Deposition by Written Questions

- i. Summit Surgery Center Motion to Quash [Dkt. 2699]
 - a. Premier Notice of Withdrawal of Subpoena [Dkt. 2746]
 - ii. Emory Clinic [Dkts. 2777, 2778, 2779, 2780] and Vanderbilt motions to Quash [Dkts. 2781, 2782, 2783, 2784]
 - a. Premier Notice of Extension to Respond until April 21, 2016 [Dkt. 2792]
 - c. Box Hill Defendants' [Dkt. 2353] Notices of Deposition by Written Questions
 - d. Court rulings update:
 - i. Electronic Order Granting Extension of Premier and Box Hill Common Discovery Deadline to June 1, 2016 [Dkt. 2737]
 - ii. Order on Tennessee Clinics' Motion for Qualified Protective Order [Dkt. 2739]
 - iii. Electronic Order regarding necessity for oral argument on Tennessee Clinic Defendants' Motion to Compel David Kessler Deposition Completion and Mandate for Direct Responses [Dkt. 2790]
- 4. Status of litigation track
 - a. Update on Selection of Bellwether Trial Cases
 - i. Nashville Defendants' Summary of Remaining Bellwether Candidates [Dkt. 2660]
 - ii. PSC Summary of Remaining Bellwether Candidates [Dkt. 2661]
 - a. Saint Thomas Entities Response [Dkt. 2724]
 - iii. Saint Thomas Entities' Motion for Relief as to Proposed Bellwether Trials [Dkts. 2785, 2786]
 - a. STOPNC Defendants' Joinder [Dkt. 2791]
 - b. Plaintiffs' Response (forthcoming)
 - b. Update on Common Expert Discovery
 - c. Status of Entry of Final Judgment as to Settling Parties
 - d. STOPNC Defendants Notice of Service of Case-Specific Expert Reports [Dkt. 2789]
- 5. Report from Pro Se Liaison
- 6. Schedule for future status conferences

- a. May 19, 2016, 2:00 p.m. (Zobel); 11:30 a.m. (Boal)
- b. June 23, 2016, 2:00 p.m. (Zobel); 3:00 p.m. (Boal)

C. FULLY BRIEFED (oral argument requested for May 19, 2016 status conference)

- 1. Abdul Barakat, M.D. and Ocean State Pain Management, Inc. Motion to Dismiss Product Liability Claims in *Simas v. Abdul R. Barakat, M.D. et. al* [Dkt. 2390]
 - a. Plaintiff's Opposition [Dkt. 2591, 2592]
 - b. Abdul Barakat, M.D. and Ocean State Pain Management, Inc. Reply [Dkt. 2723]
 - c. Plaintiff's Sur-Reply [Dkt. 2765]

D. BRIEFING IN PROGRESS

1. Discovery-Related Motions

- a. Tennessee Clinic Defendants' Motion to Compel David Kessler Deposition Completion and Mandate for Direct Responses [Dkts. 2763, 2766]
 - i. Tennessee Clinic Defendants' Notice of Manual Filing of Exhibits 1-4 [Dkt. 2773]
 - ii. PSC Stipulation for Extension to Respond until April 22, 2016 [Dkt. 2797]
- b. Nashville Healthcare Defendants' Motion to Strike Matthew Lee as Case-Specific Expert [Dkts. 2769, 2770]
 - i. Plaintiffs' Consolidated Opposition [Dkt. 2799]

2. Other Motions

- a. PSC's Motion for Reconsideration of Court's February 29, 2016 Opinion and Order [Dkt. 2749]
 - i. Tennessee Clinic Defendants' Opposition [Dkt. 2755]
 - ii. Saint Thomas Entities' Joinder [Dkt. 2752]
 - iii. PSC Reply [Dkt. 2796]
- b. Plaintiff Jones's Motion for Substitution of Party [Dkt. 2760]

3. Dispositive Motions

- a. Saint Thomas Entities' Motion for Partial Summary Judgment on Putative Claims for Actual Agency and Direct Liability [Dkts. 2743, 2744, 2745]
 - i. Stipulated Extension to April 15, 2016 for Plaintiffs to Respond [Dkt. 2776]

Dated: April 12, 2016

Respectfully submitted,

/s/ Kristen A. Johnson

Thomas M. Sobol, BBO # 471770

Kristen A. Johnson, BBO # 667261

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CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Proposed Agenda to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: April 12, 2016

/s/ Kristen A. Johnson

Kristen A. Johnson, BBO # 667261